

UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION AT DAYTON

ABRAHAM ISA,

Plaintiff,

Case No. 3:23-cv-150

vs.

WARDEN, LONDON CORRECTIONAL  
INSTITUTION,

District Judge Michael J. Newman  
Magistrate Judge Chelsey M. Vascura

Defendant.

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**ORDER: (1) ADOPTING THE REPORT AND RECOMMENDATION OF THE UNITED STATES MAGISTRATE JUDGE (Doc. No. 3); (2) DISMISSING PETITIONER'S HABEAS PETITION WITHOUT PREJUDICE (Doc. No. 1); (3) DENYING PETITIONER A CERTIFICATE OF APPEALABILITY; (4) CERTIFYING THAT ANY APPEAL WOULD BE OBJECTIVELY FRIVOLOUS AND FINDING THAT *IN FORMA PAUPERIS* STATUS SHOULD BE DENIED ON APPEAL; AND (5) TERMINATING THIS CASE ON THE DOCKET**

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This case is before the Court on the Report and Recommendation issued by United States Magistrate Judge Chelsey M. Vascura (Doc. No. 3), to whom this case was referred pursuant to 28 U.S.C. § 636(b). Judge Vascura initially entered a Deficiency Order against Petitioner, an inmate in state custody challenging his conviction, noting that he neither paid the required \$5.00 filing fee nor filed his habeas petition on the proper form. Doc. No. 2 at PageID 8. Additionally, she ordered him to either pay this fee or submit a motion for leave to proceed *in forma pauperis*, and to file an amended petition on the Court's official form or otherwise respond to her Order within thirty days. *Id.* at PageID 8–9.

More than thirty days have passed since that Order without any action by Petitioner. Now, Judge Vascura recommends that Petitioner's habeas petition be dismissed under Fed. R. Civ. P. 41(b) for non-prosecution. Doc. No. 3. No party objected to the Report and Recommendation.

Upon careful *de novo* consideration of the foregoing, the Court determines that the Report and Recommendation should be adopted. Accordingly, the Court: (1) **ADOPTS** the Report and Recommendation in full (Doc. No. 3); (2) **DISMISSES WITHOUT PREJUDICE** Petitioner's habeas petition (Doc. No. 1); (3) **DENIES** Petitioner a certificate of appealability; (4) **CERTIFIES** that any appeal would be objectively frivolous and finds that Petitioner should be denied *in forma pauperis* status on appeal; and (5) **TERMINATES** this case on the Court's docket.

**IT IS SO ORDERED.**

August 14, 2023

s/ Michael J. Newman  
Hon. Michael J. Newman  
United States District Judge